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May 25, 2007

DEPARTMENT OF ENERGY
OFFICE OF HEARINGS AND APPEALS

Hearing Officer's Decision

Name of Case: Personnel Security Hearing

Date of Filing: June 23, 2006

Case Number: TSO-0406

This Decision concerns the eligibility of XXXXXXXXXXXXXXXX (hereinafter referred to as "the individual") to hold an access authorization 1/ under the regulations set forth at 10 C.F.R. Part 710, entitled "Criteria and Procedures for Determining Eligibility for Access to Classified Matter or Special Nuclear Material." As set forth below, it is my decision, based on the evidence and testimony presented in this proceeding, that the individual's access authorization should be granted.

I. Background

The individual is employed at a Department of Energy (DOE) facility where his work requires him to have an access authorization. DOE granted an access authorization to the individual in July 1996 when he was 16 years old. The individual held a DOE security clearance while working for a DOE contractor throughout high school and college. In December 2003, the individual graduated from college and left the employ of the DOE contractor. At this point, DOE terminated the individual's security clearance. In March 2005, the individual accepted a job with a DOE contractor and that contractor requested that the DOE reinstate the individual's access authorization. However, during a background investigation, the local DOE security office discovered some derogatory information that created security concerns. DOE asked the individual to participate in a Personnel Security Interview (PSI) in order to resolve the information. The PSI did not resolve the security concerns.

The local DOE security office issued a Notification Letter to the individual on May 1, 2006. The Notification Letter alleges that the individual's illegal use of drugs while holding a DOE access authorization raises concerns under the security regulations codified at 10 C.F.R. § 710.8, subsections (k) and (l) (hereinafter referred to as Criteria K and L respectively). 2/

1/ Access authorization is defined as an administrative determination that an individual is eligible for access to classified matter or is eligible for access to, or control over, special nuclear material. 10 C.F.R. § 710.5(a).

2/ Criterion K concerns information that a person has "[t]rafficked in, sold, transferred, possessed, used or
(continued...)

In a letter to the local DOE security office, the individual exercised his right under Part 710 to request a hearing in this matter. 10 C.F.R. § 710.21(b). The Director of OHA appointed me as the Hearing Officer in this case. After conferring with the individual and the appointed DOE counsel, 10 C.F.R. § 710.24, I set a hearing date. At the hearing, the individual testified on his own behalf and elected to call eight witnesses: the individual's parents, two friends, a former professor, two managers and a psychologist. The agency did not call any witnesses. The transcript taken at the hearing shall be hereinafter cited as "Tr." Documents that were submitted by the DOE counsel during this proceeding constitute exhibits to the hearing transcript and shall be cited as "Ex."

II. Regulatory Standard

A. Individual's Burden

A DOE administrative review proceeding under Part 710 is not a criminal matter, where the government has the burden of proving the defendant guilty beyond a reasonable doubt. Rather, the standard in this proceeding places the burden on the individual because it is designed to protect national security interests. This is not an easy burden for the individual to sustain. The regulatory standard implies that there is a presumption against granting or restoring a security clearance. *See Department of Navy v. Egan*, 484 U.S. 518, 531 (1988) ("clearly consistent with the national interest" standard for granting security clearances indicates "that security determinations should err, if they must, on the side of denials"); *Dorfmont v. Brown*, 913 F.2d 1399, 1403 (9th Cir. 1990), *cert. denied*, 499 U.S. 905 (1991) (strong presumption against the issuance of a security clearance).

The individual must come forward at the hearing with evidence to convince the DOE that granting his access authorization "will not endanger the common defense and security and will be clearly consistent with the national interest." 10 C.F.R. § 710.27(d). The individual is afforded a full opportunity to present evidence supporting his eligibility for an access authorization. The Part 710 regulations are drafted so as to permit the introduction of a very broad range of evidence at personnel security hearings. Even appropriate hearsay evidence may be admitted. 10 C.F.R. § 710.26(h). Hence, an individual is afforded the utmost latitude in the presentation of evidence to mitigate the security concerns at issue.

B. Role of the Hearing Officer

In access authorization cases arising under Part 710, it is my role as the Hearing Officer to issue a decision that reflects my comprehensive, common-sense judgment, made after consideration of all

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experimented with a drug or other substance listed in the Schedule of Controlled Substances established pursuant to section 202 of the Controlled Substances Act of 1970 (such as marijuana, cocaine, amphetamines, barbiturates, narcotics, etc.) except as prescribed or administered by a physician licensed to dispense drugs in the practice of medicine, or as otherwise authorized by Federal law." 10 C.F.R. § 710.8 (k). Criterion L relates in relevant part to information that a person has "[e]ngaged in any unusual conduct or is subject to any circumstances which tend to show that the individual is not honest, reliable, or trustworthy; . . ." 10 C.F.R. § 710.8(l).

the relevant evidence, favorable and unfavorable, as to whether the granting or continuation of a person's access authorization will not endanger the common defense and security and is clearly consistent with the national interest. 10 C.F.R. § 710.7(a). I am instructed by the regulations to resolve any doubt as to an individual's access authorization eligibility in favor of the national security. *Id.*

III. Findings of Fact

In 1996, at the age of 16, the individual applied to work as a part-time student intern with a DOE contractor. In connection with his work, the DOE required the individual to have a security clearance. On February 14, 1996, the individual signed and dated a DOE Security Acknowledgment certifying that he understood that any involvement with illegal drugs could result in the loss of his DOE access authorization. The individual continued to hold a security clearance and work on a part-time basis while in high school, college and graduate school. In 2003, the individual graduated. The DOE terminated the individual's security clearance at this time. During the time the individual held a security clearance as a student (1997-2003), he received yearly security refresher briefings which were designed to remind the individual of DOE's security rules and regulations, including DOE's policy on drug use. In 2005, the individual applied to work for the same DOE contractor that he had worked for while in school. In order to reactivate his security clearance, the individual completed several security forms including a Questionnaire for National Security Positions (QNSP). In response to questions on the QNSP, the individual revealed that he had used illegal drugs while holding a DOE security clearance. Subsequently the DOE asked him to participate in a Personnel Security Interview (PSI).

During a PSI conducted on July 7, 2005, the individual admitted that he smoked marijuana in February 1999 and used hallucinogenic mushrooms in November 2000 and November 2001, while holding a DOE access authorization. *See* DOE Exh. 1. During his PSI, the individual stated that he smoked marijuana on one occasion over Valentine's Day weekend in 1999 when he was 19 years old. According to the individual, he and his girlfriend and two other couples shared a cabin over the weekend. Someone packed a marijuana pipe and passed it around at some point during their weekend stay. The individual states that he succumbed to peer pressure and inhaled from the pipe. He further states that this was the first and only time that he smoked marijuana, taking only one puff from the pipe, although he has been around others in the past when they were smoking marijuana. The individual asserts that he refused the pipe when it came around to him again. With respect to the hallucinogenic mushrooms, the individual states that he used them on two occasions, in 2000 and 2001. On both of these occasions, the individual asserts that he was with friends from college when one of them offered him a piece of a mushroom and he accepted. Again, he states that he succumbed to the pressure of wanting to be accepted by his friends. The individual states that he has never purchased, sold, distributed, trafficked in, produced, manufactured, grown or otherwise been involved with marijuana, mushrooms or any other illegal drugs. He further asserts that he no longer associates with people who use illegal drugs and has no intention of using illegal drugs in the future.

IV. Analysis

I have thoroughly considered the record of this proceeding, including the submissions tendered in this case and the testimony of the witnesses presented at the hearing. In resolving the question of the individual's eligibility for access authorization, I have been guided by the applicable factors prescribed in 10 C.F.R. § 710.7(c). ^{3/} After due deliberation, I have determined that the individual's access authorization should be granted. I find that granting the individual's access authorization would not endanger the common defense and security and would be clearly consistent with the national interest. 10 C.F.R. § 710.27(a). The specific findings that I make in support of this decision are discussed below.

The Individual's Testimony

The individual testified about the circumstances surrounding his drug use in 1999, 2000 and 2001. According to the individual, in February 1999, he spent the weekend in a cabin with his girlfriend and two other couples. Hearing Transcript (Tr.) at 105. He stated that he was 19 years old at the time while most of the others were several years older. *Id.* The individual stated that one of the others present proceeded to pass around a small pipe of marijuana. He stated that when the pipe came around to him, the individual said "No" because he had never smoked marijuana. *Id.* The individual testified that "there was pressure at that point in time, . . . we're on vacation, this is Valentine's Day, . . . being a 19 year old, with a bunch of 25 year olds, who have graduated from college, . . . I did it." *Id.* The individual further testified that he took one puff of the marijuana pipe and felt "terrible." *Id.* According to the individual, after taking the puff of marijuana, he felt he had made a mistake.

With respect to his use of the hallucinogenic mushrooms, the individual testified that both of these incidents occurred at fraternity retreats. The individual stated that on both occasions a fraternity brother brought mushrooms to the retreat. When he was asked if he wanted some of a mushroom, he said "No", but later decided to try "to be a part of the group." *Id.* at 109. The individual testified that "It's the stupidest decision I've ever made in my life. I mean, in hindsight, it's probably the dumbest decision I ever made in my life. I regret it." *Id.* The individual stated that he was 21 and 22 years old at the time of these incidents.

The individual testified that he was first granted an access authorization in 1996 and held it continuously until December 2003. When questioned about the February 14, 1996 DOE Security Acknowledgment, the individual stated that he was 16 years old at the time he signed the form. The individual's mother also signed the form because, according to the individual, he did not have the legal capacity to read and sign the form by himself. *See* DOE Exh. 7. However, he testified that he

^{3/} Those factors include the following: the nature, extent, and seriousness of the conduct, the circumstances surrounding his conduct, to include knowledgeable participation, the frequency and recency of his conduct, the age and maturity at the time of the conduct, the voluntariness of his participation, the absence or presence of rehabilitation or reformation and other pertinent behavioral changes, the motivation for his conduct, the potential for pressure, coercion, exploitation, or duress, the likelihood of continuation or recurrence, and other relevant and material factors.

could not remember reading nor signing the form. Tr. at 111. The individual asserts that although he should have understood that DOE did not tolerate the use of illegal drugs, he states that he did not really “absorb the knowledge” due to his young age when he filled out the forms. He asserts that no one ever told him at work or at security refresher briefings that DOE did not tolerate illegal drugs, although he admits that he should have known this. The individual also stated that he never signed a drug certification and that there was no mention of DOE’s drug policy during the course of his PSI. *Id.* at 112. Despite all of these statements, the individual reiterated that “common sense” would tell him that DOE does not tolerate drug use. *Id.* at 113. Finally, the individual stated that he did not participate in a 2001 Comprehensive Security Briefing as DOE Security stated in his Notification Letter, but that he participated in a Comprehensive Security Briefing in 1997 when he was 17 years old. *Id.* at 116-117. When asked whether he knew DOE’s position on drug use the individual testified to the following:

It was . . . drugs are illegal, and I knew that, and like my dad said, I was in the DARE program. From the standpoint that drugs are illegal, I knew that there is a good chance that DOE and [the contractor] probably didn’t allow it or had a policy against it, but as of formal training and it put in front of my face every year, or something, or a repetitive reminder of this, it was not there. . . The concrete nature of the policy was not clear to me.

Tr. at 134.

The individual testified that he has not used illegal drugs since these incidents. He stated that he presently lives a very healthy lifestyle and does not associate with people who use drugs. Tr. at 106. He further stated that he has never purchased nor possessed any drugs in his life and that he has no intention of ever using drugs in the future. *Id.* During the course of the hearing, the individual explained that his last instance of drug use was five years ago. Tr. at 128. He testified that he has matured a great deal. Since the last instance of drug use, he has earned two college degrees and has held staff positions at two government contractors. *Id.* According to the individual, “I’ve matured. I would never make a decision to endanger my career like that again. It’s an easy decision now. Nobody could persuade me . . . to do drugs, period.” *Id.*

The Psychologist’s Testimony

The individual presented the testimony of a clinical psychologist who evaluated him. The psychologist testified that he conducted an evaluation of the individual, and administered the Personality Assessment Inventory and the Rorschach tests to him. According to the psychologist, the individual scored within normal limits on this testing. He further testified that there was “no evidence of either an affective, emotionally based disorder, or a cognitive disorder. No unusual thinking.” Tr. at 156. In his opinion, the psychologist testified that there were no indications that would affect the individual’s ability to hold a security clearance.

During the course of the hearing, the individual’s psychologist offered extensive testimony about adolescent brain function. The psychologist particularly testified about the significance of the frontal

lobe and how the frontal lobe of the brain evolves in a male. According to the psychologist, the frontal lobe of the brain basically consists of the “executive functions . . . It has to do with reasoning, creating relationships, sequencing, gathering data from the environment. Again, time and time sequencing is in there.” *Id.* at 158. The psychologist testified that these frontal lobe functions do not begin to evolve until about 13 years of age and can take over a decade to fully evolve, “it develops until around 20 or 21, but real life data says about 24 or 25.” *Id.* The psychologist indicated that “not everyone who would appear to be of adequate intelligence” develops frontal lobes, “even people that have high IQs.” *Id.* at 159. He further indicated that it is the frontal lobe functions that are responsible for an individual’s mature behavior. The psychologist reiterated that not everyone reaches a level of brain maturity.

With respect to the individual, the psychologist testified that the individual’s situations with drug use would be considered “developmentally completely appropriate judgment for somebody his age.” *Id.* at 168. He explained the following: “It was as though [the individual] had brain damage and he couldn’t regulate his behavior . . . he did, but still he was a teenager. A few years later, he might have thought of some other things as consequences or barrier or reasons to not, but again, with him in particular as a teenager, he was more responsible and more well developed frontally than most others would be of his same age, but still he was a teenager.” *Id.* According to the psychologist, the individual’s behavior with respect to drugs was developmentally normal and he had no concerns about his judgment in the future. *Id.* at 169-171.

The Supervisors’ Testimony

The individual offered the testimony of a former manager. This manager has held an access authorization for 21 years and supervised the individual from April 1999 through August 2002 when the individual worked in his department as a student intern. This former manager described the individual as an intelligent worker who worked well with his co-workers and who was always willing to take on challenges. *Tr.* at 11. He stated that he had so much confidence in the individual’s abilities that his department helped to fund the individual’s graduate school education. According to the individual’s former manager, he had no reason to believe the individual was involved in drug use or could be subject to exploitation or duress. *Id.* at 13.

The individual’s current supervisor testified that the individual is an excellent worker who comes highly recommended by the staff with whom he works. According to the individual’s current supervisor, the individual has received nothing but very positive feedback on his performance evaluations. He testified that his program “would not be nearly as successful . . . if [the individual] wasn’t involved doing a lot of the day-to-day development and fieldwork.” *Tr.* at 94. He has observed the individual in a number of settings, mostly at work and at departmental luncheons, and never suspected that the individual used illegal drugs. *Id.* at 98. The individual’s current supervisor believes that the individual is “very regretful for what he did” and now understands the seriousness of his actions. *Id.* at 99.

The Parents' Testimony

The individual also offered the testimony of both of his parents. His mother, who is now self-employed, held a security clearance for a number of years in the past. She described the individual as a very intelligent and gifted child while growing up. Tr. at 29. The individual's mother testified that her son never caused any kind of discipline problems as a child and never had any issues related to drug usage. She stated that she never saw any evidence that her son used illegal drugs. *Id.* at 30. When questioned about her signature on the individual's 1996 DOE Security Acknowledgment form, the individual's mother testified that she signed the 1996 DOE Security Acknowledgment form along with the individual because he was too young to sign the form by himself. *Id.* at 32. *See* DOE Exh. 7. She also testified that she signed the individual's 1996 Questionnaire for National Sensitive Positions (QNSP) form for the same reason. The individual's mother described her son as a very conscientious person who experimented with drugs when he was young, but has no intention of ever using drugs in the future. Tr. at 39. She reiterated that the individual has had a clearance for nine years starting when he was 16 years old and has never had problems.

The individual's father similarly testified that the individual is a very bright, conscientious individual who has always been compliant and willing to learn. Tr. at 47. He stated that he has never seen anything to indicate that his son uses illegal drugs and considers him to be a very trustworthy person. *Id.* at 48.

The Professor's Testimony

The individual offered the testimony of one of his university professors who taught the individual from 2000 through 2002. The professor described the individual as one of the best students he has ever had, stating specifically that the individual's academic ability was superior. According to the professor, he got to know the individual fairly well because his course required the students to work as a team. Tr. at 59-60. The professor testified that the individual was a very responsible, mature person. He stated, "when I have a team of 10, 20 people, going from the 20 percent who do 80 percent of the work, [the individual] clearly fell into the 20 percent who did 80 percent of the work." *Id.* at 60. The professor testified that he has never seen any evidence that the individual is a drug user and added that he has had experience with other students who had serious drug issues. *Id.* at 65.

Friends' Testimony

The individual offered the testimony of two of his college friends. One of his friends has known the individual since 1997 in high school. This friend became closer to the individual in college when they pledged the same fraternity. Tr. at 70. This friend testified that after graduating from law school, he roomed with the individual for one year, from August 2005 to August 2006. When questioned about his knowledge of the individual's drug usage, this friend stated that he was present at both of the fraternity retreats where the individual states he consumed the hallucinogenic mushrooms, but he did not personally witness the individual's consumption. *Id.* at 73. He further testified that in the entire time that he has known the individual, he has never witnessed the

individual consuming any drugs whatsoever. *Id.* This friend stated that he considers the individual to be an honest, reliable and trustworthy person. *Id.* at 74.

Another friend of the individual testified that he has known the individual for about 10 years, attending the same university and joining the same fraternity as the individual. *Id.* at 84. This friend testified that he considers the individual to be a good friend and is currently the individual's roommate. He stated that he has never seen the individual use drugs. This friend also attended the two fraternity retreats where the individual states he consumed the hallucinogenic mushrooms. He acknowledged that illegal drug use took place at the retreats, but never witnessed the individual using drugs during the retreats. *Id.* at 85. This friend further testified that he has had conversations with the individual concerning his viewpoint on drugs and stated that the individual is "pretty much against it in all ways, shapes and forms." *Id.* at 82. He testified that the individual is an honest, reliable and trustworthy person. *Id.* at 83.

Hearing Officer Evaluation of Evidence

A. Criterion K

As stated above, the Criterion K security concerns at issue here are predicated on statements made by the individual during a PSI conducted by the DOE in July 2005. Specifically, the individual told the Personnel Security Specialist that he smoked marijuana in 1999 and used hallucinogenic mushrooms on two occasions, November 2000 and November 2001. As a general matter, use of an illegal substance by an individual holding a security clearance is a source of serious concern since the ability to safeguard national security information is diminished when judgment and reliability is impaired, and individuals who use illegal substances may be susceptible to being coerced or exploited to reveal classified matters. These concerns are indeed important and have been recognized by a number of Hearing Officers in similar cases. *See, e.g., Personnel Security Hearing, Case No. VSO-0221, 27 DOE ¶ 82,792 at 85,762 (1999); Personnel Security Hearing, Case No. VSO-0200, 27 DOE ¶ 82,770 at 85,628 (1998).* I therefore turn to whether the individual has presented sufficient mitigating evidence to overcome the concerns of DOE Security relating to his use of illegal drugs. Based upon the record before me, I have determined that the individual has successfully carried his burden in this regard.

In evaluating the totality of the circumstances surrounding the individual's illegal drug use, I have determined that the following factors did not weigh in the individual's favor. First, the individual's willful disregard for the law by using illegal drugs is a serious matter. Second, the individual engaged in this illegal conduct on three occasions while holding an access authorization. Third, the individual's conduct was both voluntary and knowing.

Against these negative factors, I weighed the following positive ones. First, the individual voluntarily reported his use of illegal drugs to the DOE in 2005 when he executed his QNSP. Second, through his testimony, the individual convinced me that he understands the seriousness of his past drug usage and is taking full responsibility for his actions. The individual's current behavior demonstrates that he is now comporting himself in an honest, trustworthy and responsible manner. Third, the evidence

convinced me that the individual's youth and immaturity at the time he used drugs may have contributed to his poor judgment to use illegal drugs. ^{4/} Fourth, the individual convinced me that he has not used illegal drugs for over five years and does not associate with persons who use drugs. The individual's parents, friends and professor provided persuasive testimony to corroborate the individual's testimony on this point. Fifth, the individual has told his parents, friends and supervisors about his illegal drug use, a fact that appears to lessen his susceptibility to blackmail, coercion and undue duress. Sixth, the individual has provided credible assurances that he will not use drugs in the future. In the end, the individual has provided compelling testimonial evidence that leads me to conclude that his past use of illegal drugs is unlikely to recur.

On balance, the weight of the evidence demonstrates that the individual has transformed from an immature, albeit very intelligent, college and university student to a more responsible and focused adult. The individual chose to stop using illegal drugs on his own, testifying that his experimentation with marijuana and hallucinogenic mushrooms made him feel "terrible." More importantly, the individual testified that as a responsible adult who understands the importance of following rules and laws, he has no intention of ever using illegal drugs again. The individual has assumed full responsibility for his past actions. Accordingly, after carefully weighing all the evidence, both favorable and unfavorable, I find that the individual has provided sufficient compelling evidence to mitigate the Criterion K concerns at issue.

B. Criterion L

To support its Criterion L allegations, the DOE alleges in the Notification Letter that (1) the individual signed and dated a DOE Security Acknowledgment certifying that he understood that any involvement with illegal drugs could result in the loss of his DOE access authorization; (2) the individual acknowledged during a 2005 PSI that he was aware of the DOE's policy regarding illegal drug use and admitted that he was concerned that he could have failed a random drug test after using marijuana in 1999, and (3) the individual attended annual security refresher briefings which covered DOE's policy on the use of illegal drugs, from 1997 through 2003, and 2005 as well as a comprehensive security briefing. These Criterion L concerns relate to the individual's honesty, reliability and trustworthiness.

In response to the Criterion L concerns, the individual first contends that he was 16 years old when he signed the DOE Security Acknowledgment. He explained that he started working for DOE in October 1996 as a student and that his mother had to sign the Security Acknowledgment because of his young age. The individual testified convincingly that he knew drugs were illegal and the DOE would not tolerate drug use but blames his drug use on poor judgment and youthful indiscretions. With regard to the comprehensive security briefing, the individual testified that he was 17 years old

^{4/} The individual's psychologist referred to several studies regarding frontal lobe functions and suggested that the individual lacked the maturity to handle the situations he encountered with drugs. However, the two tests the psychologist administered to the individual did not evaluate the frontal lobe function of the individual. Therefore, I will not accord any weight to the psychologist's testimony in this regard.

at the time he participated in this briefing. He could not remember attending the briefing nor the discussion on the use of illegal drugs. Similarly, with respect to the annual security refreshers the individual attended, he testified that he could not remember a discussion on DOE's policy on drug use and asserts that DOE did not specifically discuss its policy on drug use during these briefings.

This is a very close case because violating the law is a serious matter. It is especially concerning that the individual violated the law, three times during a three-year period, while holding a security clearance. When the individual signed the DOE Security Acknowledgment in 1996 and attended the Comprehensive Security Briefing in 1997, he was less than 18 years old. In view of the individual's age and immaturity at these times, I am convinced that the individual failed to fully understand the obligations being imposed upon him as a clearance holder. For this reason, I find that the individual's conduct does not cast doubt on his current reliability, trustworthiness, or good judgment.

I further find that despite the seriousness of the individual's conduct, there are several positive factors that outweigh the negative factors in this case. The record shows that the individual voluntarily disclosed his past drug use to the DOE on his 2005 QNSP. The individual's candidness in this regard is a positive factor in his favor and demonstrates that he is taking full responsibility for his past misdeeds. *See Personnel Security Hearing* (Case No. TSO-0103) (affirmed by OSA 2004). Moreover, the testimony of the individual and other witnesses attest to the fact that the individual has matured a great deal since the events occurred that gave rise to the Criterion L allegations. *See Personnel Security Hearing* (Case No. TSO-0042) (mitigation of Criterion L found in a case where a college student used illegal drugs after executing a Security Acknowledgment). As explained fully above, the individual convinced me that his violations of law on three occasions were isolated incidents and that he has become a more mature, responsible adult. As a practical matter, I find that the individual now understands the seriousness of his responsibility as a security clearance holder as well as the overwhelming importance of fully adhering to DOE's policy on drug use as well as DOE's other rules and regulations. Overall, after carefully evaluating all the evidence, both favorable and unfavorable, it is my common sense judgment that it is highly unlikely that there will be an recurrence of the conduct that gave rise to the Criterion L concern. I find, therefore, that the individual has mitigated the Criterion L security concerns.

V. Conclusion

Upon consideration of the record in this case, I find that there is evidence that raised a doubt regarding the individual's eligibility for an access authorization under Criteria K and L. After considering all the relevant information, favorable and unfavorable, I have found that the individual has brought forth sufficient evidence to mitigate the security concerns advanced by the DOE. I therefore find that granting the individual's access authorization would not endanger the common defense and security and would be clearly consistent with the national interest. Accordingly, I have determined that the

individual's access authorization should be granted. The parties may seek review of this Decision by an Appeal Panel under the regulations set forth at 10 C.F.R. § 710.28.

Kimberly Jenkins-Chapman
Hearing Officer
Office of Hearings and Appeals

Date: May 25, 2007.